

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 145 - SB 1403

March 16, 2021

SUMMARY OF ORIGINAL BILL: Decreases, from three business days to two business days, the amount of time a pharmacy benefits manager has to adjust the maximum allowable cost (MAC) of the drug or medical product or device to which the MAC applies for similar pharmacies in the network once a pharmacy has appealed the listed MAC and the appeal has been determined valid.

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

IMPACT TO COMMERCE OF ORIGINAL BILL:

NOT SIGNIFICANT

SUMMARY OF AMENDMENT (003897): Deletes all language after the enacting clause. Requires a pharmacy benefits manager (PBM) seeking renewal of a license to demonstrate to the Department of Commerce and Insurance (DCI) that in the performance of PBM, the best interests of the insured are prioritized above the interests of other parties or entities, including but not limited to, those of a covered entity, a pharmacy, and a pharmacist, an insurance plan, or a third-party administrator.

Increases the fee for initial licensure as a PBM from \$100 to \$1,000. Increases the fee for renewal of licensure as a PBM from \$50 to \$500. Changes licensure renewal from biannually to annually. Increases the fine for failure to obtain or renew a license while acting as a PBM from not less than \$100 nor more than \$500, to \$2,500 per violation. Establishes that each day a person or entity is in violation is a separate violation.

Authorizes the DCI to use the funds from fees and fines collected that are in excess of the amount needed to administer this part for the purpose of promoting awareness of available substance use disorder resources in this state.

By January 1, 2022, requires DCI to establish by rule a process to receive and process complaints from an insured, a provider, a pharmacist, or a pharmacy that allege a violation of this part by a PBM. By January 15, 2023, and no later than January 15 each year thereafter, requires DCI to submit to the Chief Clerks of the Senate and the House of Representatives, and the legislative

librarian, a report containing the number of complaints received against PBMs and statistics on the resolution of complaints and penalties assessed against PBMs. Requires all contracts entered into or amended on or after July 1, 2021 to be in compliance with the provisions of this part.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Increase State Revenue – \$28,800/FY21-22

\$30,200/FY22-23

Exceeds \$33,600/FY23-24 and Subsequent Years

Assumptions for the bill as amended:

- Public Chapter 838 of 2018 required PBMs to obtain licensure beginning January 1, 2019.
- Based on information provided by the DCI, there are a total of 50 currently licensed PBMs.
- It is reasonably estimated five new PBMs will obtain initial licensures beginning in FY21-22 and subsequent years.
- The biannual license fee for a PBM is \$100 for initial license and \$50 for a renewal.
- Passage of the proposed legislation will require all 50 currently licensed PBMs to renew their license annually beginning in FY21-22.
- The increase in fee revenue for initial and renewal PBM licensees is estimated to be \$28,800 in FY21-22, \$30,200 in FY22-23 and to exceed \$33,550 in FY23-24 and subsequent years.
- It is assumed PBMs will adhere to the provisions of the proposed legislation to avoid violations and subsequent fines.
- The DCI can establish a process to receive and process complaints utilizing existing resources; therefore, any increase in expenditures is estimated to be not significant.
- In the interest of conciseness and clarity, all calculations used in the analysis are not included in this fiscal note, but are available upon request with the Fiscal Review Committee staff.

IMPACT TO COMMERCE WITH PROPOSED AMENDMENT:

Unchanged from the original fiscal note.

Assumption for the bill as amended:

- Any increase in expenditures to the PBMs as a result on the proposed legislation is assumed to be passed onto customers; therefore, no significant impact to commerce or jobs in Tennessee.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The script is cursive and fluid, with the first letters of each name being capitalized and prominent.

Krista Lee Carsner, Executive Director

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